

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE: ROBERT E. EDEN, Debtor	Case No. 17-11055 CHAPTER 7
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**MOTION FOR ORDER DIRECTING 2004
EXAMINATION AND PRODUCTION OF DOCUMENTS**

Joseph M. DiOrio, in and only in his capacity as the Chapter 7 trustee (the “Trustee”) of the bankruptcy estate of Robert E. Eden (the “Debtor”), pursuant to 11 U.S.C. 704(a), Fed. R. Bankr. P. 2004 and RILBR 2004-1, hereby moves this Honorable Court for an entry of an Order requiring the Debtor’s spouse Kathryn Eden (“Deponent”), to appear for examination pursuant to Fed. R. Bankr. P. 2004 on a date to be identified in Notice of 2004 Examination, and further requiring the Deponent to produce any and all relevant documents, including any documents identified herein or in a Document Request served on the Deponent, not less than than (10) business days prior to their respective examinations.

DEFINITIONS

A. “Relates” or “relating to” means concerning, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, describing, mentioning, reflecting, analyzing, explaining, constituting, evidencing, memorializing, or pertaining to.

B. “Document” is to be construed in its broadest sense under Fed. R. Civ. P. 34, including, without limitation, any paper or other writing, any electronically stored data and any item of graphic material, however recorded, stored or reproduced.

BACKGROUND

1. On June 23, 2017 (the “Petition Date”), Debtor filed a voluntary petition for relief

under Chapter 7 of the Bankruptcy Code. Thereafter, the Trustee was appointed Chapter 7 trustee of the Debtor's estate.

2. At the Debtor's Section 341 Meeting the Debtor testified that monthly he gives the Deponent funds to support her business.

3. To date, Debtor's Counsel has turned over only the Debtor's bank records for the last four years.

GROUND FOR EXAMINATION

Federal Rule of Bankruptcy Procedure 2004(a) provides that "on motion of any party in interest, the court may order the examination of any entity." *Fed. R. Bankr. P. 2004(a)*. The examination may relate to "the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge." *Id.* Furthermore, Federal Rule of Bankruptcy Procedure 2004(d) provides that "the court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending." *Fed. R. Bankr. P. 2004(d)*.

In support of this motion, the Trustee states the following:

1. The Trustee seeks the Deponent's financial records and tax returns to determine what transfers were made to the Deponent by the Debtor.

2. The Deponent has or is expected to have actual knowledge of the above matters.

3. A 2004 examination and the production of documents is necessary in order for the Trustee to fulfill his duties of administering the bankruptcy estate pursuant to the Bankruptcy Code and to investigate and evaluate the Debtor's acts and conduct in connection therewith.

4. The Deponent can provide the Trustee with relevant information and documents relating to the Debtor's business that will aid the Trustee in the administration of the Debtor's bankruptcy estate.

5. Upon information and belief Kathryn Eden is Robert E. Eden's wife and owns her own business for which her husband provides funding. Thus, the Deponent's records should be readily available for inspection and review by the Trustee.

6. In connection with the examination of Kathryn Eden the Trustee seeks to review and requests the production of all of the Deponent's:

- a. Deponent's financial documents relating to her professional services businesses including but not limited to: documents relating to the business's assets and value, income and expenses, ledgers and funds received from Debtor for the previous four (4) years;
- b. Deponent's business's federal and state tax returns for the years 2014, 2015 and 2016;
- c. Copies of all deposits into Deponent's business bank accounts for the previous four years; and
- d. Documents related to any and all electronic transfers of funds from Debtor's Bank accounts to any accounts owned, held or controlled by Kathryn Eden for the previous four (4) years.

WHEREFORE, the Trustee respectfully request that this Honorable Court enter an Order:

- i. Authorizing the Trustee to conduct Rule 2004 Examinations of the Deponent;

- ii. Requiring the Deponent to appear at DiOrio Law Office on not less than fourteen (14) days' notice, to be examined pursuant to Fed. R. Bankr. P. 2004 and to produce any and all relevant documents, including those identified above and in any Document Request served on Deponents, not less than ten (10) business days prior to their examinations; and
- iii. Granting such other and further relief as the Court deems just and appropriate.

NOTICE

Within fourteen (14) days of service of this Motion for a Rule 2004 Examination, if served electronically, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006(f) if you were served by mail, or other excepted means specified, any party who objects to the examination shall serve and file an objection and/or motion for protective order with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objections or motions for protective order are timely filed, the motion for examination will be granted by the Court by endorsement order.

Respectfully submitted:
JOSEPH M. DIORIO, Trustee

/s/ Joseph M. DiOrio
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Dated: December 6, 2017

CERTIFICATE OF SERVICE

I hereby certify that on December 6, 2017, I electronically filed the foregoing document in the above-captioned matter with the Clerk of the Bankruptcy Court for the District of Rhode Island using the CM/ECF system. CM/ECF participants will receive notice electronically. I further certify that I have mailed by United States Postal Service, postage pre-paid, the document to the following non CM/ECF participants:

Kathryn Eden
197 Rumstick Road
Barrington, RI 02806-4293

Russell D. Raskin, Esq.
Raskin & Berman
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/s/ Amanda M. Perry